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COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE 44th MEETING
(First part) */

Held at the Palais des Nations, Geneva,
on Wednesday, 6 March 1985, at 3 p.m.

Chairman:	Mr. CHOWDHURY	(Bangladesh)
later:	Mr. BAMELA ENGO	(Cameroon)

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*/ The summary record of the second part of the meeting is contained in document E/CN.4/1985/SR.44/Add.1.

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GE.85-15501

The meeting was called to order at 3.25 p.m.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

(a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING: THE RIGHT TO DEVELOPMENT;

(b) THE EFFECTS OF THE EXISTING UNJUST INTERNATIONAL ECONOMIC ORDER ON THE ECONOMIES OF THE DEVELOPING COUNTRIES, AND THE OBSTACLE THAT THIS REPRESENTS FOR THE IMPLEMENTATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;

(c) POPULAR PARTICIPATION IN ITS VARIOUS FORMS AS AN IMPORTANT FACTOR IN DEVELOPMENT AND IN THE FULL REALIZATION OF ALL HUMAN RIGHTS

(agenda item 8) (continued) (E/CN.4/1984/12 and Add.1; E/CN.4/1984/13 and Corr.1 and 2; E/CN.4/1985/10 and Add.1; E/CN.4/1985/11; E/CN.4/1985/NGO/7, 9, 21 and 33)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS: ELABORATION OF A SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AIMING AT THE ABOLITION OF THE DEATH PENALTY (agenda item 18) (continued) (E/CN.4/1985/4; A/C.3/35/L.75; A/39/461 and 484; CCPR/C/21 and Add.1 to 4)

1. Mr. QUINN (Australia) said that his statement would deal exclusively with agenda item 8, which covered a number of very complex issues that were of profound significance to all Member States. In the fortieth anniversary year of the United Nations Charter, it was appropriate to recall that, as a founding member of the United Nations, Australia had argued strongly in the early debates for due attention to be accorded to economic rights. In recent years, his delegation had continued to support a practical and constructive debate on economic rights.

2. Despite the many difficulties encountered by the Working Group of Governmental Experts which had been drafting a declaration on the right to development, his delegation would continue to support efforts to reach a consensus on the issue of the right to development. It welcomed constructive suggestions to break the log-jam which had developed and expressed its deep appreciation to Mr. Sène for his tireless efforts and to the expert from Yugoslavia for his draft declaration, which went a long way towards bridging some of the key differences on the subject. There were, however, a number of elements in the proposed draft that would have to be given furtner consideration. In view of the importance of the subject, it seemed appropriate to continue deliberations within the Commission so that the possible drafts could be examined in greater detail and his delegation could not support moves to refer the issue to the next session of the General Assembly; such a step would be premature and might put further progress at risk. His delegation did, however, welcome the suggestion that Governments should be given an opportunity to provide further comments on the draft declaration.

3. One of the lessons of the past two decades was that economic achievements should not be seen as ends in themselves and must be evaluated in the light of what they did to people; in the human rights context, development should be seen as a process of working towards the goals set out in the principal international human rights instruments. Individuals could realize their full potential only if they could fully enjoy their fundamental rights and freedoms. As a corollary, more attention should be paid to social and cultural rights, since the focus to date had been virtually exclusively on economic elements.

4. Although the right to development involved individuals rather than States, it also had a collective or social dimension. Governments had responsibilities to their citizens in that regard, for their development strategies must be guided by concepts of social justice and human rights.

5. History showed that respect for human rights was not conditional upon the achievement of a particular level of economic development and that some of the worst abuses of human rights had been perpetrated by régimes with access to modern technology and with relatively high standards of living. Conversely, many less developed States had remarkably good human rights records, as well as humane Governments and social institutions which protected the rights of the weak.

6. His country had closely followed the broad conceptual debate on the right to development, but it was also concerned about practical and specific problems. In that connection, account should be taken of the study on the new international economic order and human rights (E/CN.4/Sub.2/1983/24) and of the pioneering work on the right to food as a human right (E/CN.4/Sub.2/1984/22), for they brought a specific and practical focus to the subject of economic rights. All Governments should examine the study on the right to food carefully and provide comments on it.

7. His delegation believed that the realization of the right to development should be seen as inherent in the implementation of the International Covenant on Economic, Social and Cultural Rights and it wished to see more effective co-ordination between the consideration of the right to development and the work being done by the Sessional Group of the Economic and Social Council which monitored the implementation of the Covenant. The Sessional Group should be strengthened and the reporting process enhanced because the reports made available by States contained a wealth of material that should be given more publicity and study.

8. His delegation believed that popular participation was inextricably linked to the full enjoyment of human rights and fundamental freedoms. The accountability of Governments and the protection of the individual citizen depended upon the ability of every citizen to participate in the adoption of important decisions, for example, through the electoral process. The fact that several countries had recently restored free and fair elections was a welcome development, but not the full story: enjoyment of freedom of association, opinion and expression was an essential element in ensuring effective participation in the electoral process.

9. His delegation shared the view that there was a clear connection between popular participation and self-determination. Popular participation was equally important in the field of economic, social and cultural rights, for it placed the individual at the centre of the development process as both agent and beneficiary.

10. His delegation encouraged Governments to examine the Secretary-General's study on that subject carefully and to provide substantial comments on the issues it raised.

11. Mr. SAKER (Syrian Arab Republic) commended the Working Group of Governmental Experts on the Right to Development on its excellent report (E/CN.4/1985/11). Some of the ideas contained in the report nevertheless needed to be developed further and then formulated in a way that would be satisfactory to all members. In 1984, the Working Group had agreed on only one preambular paragraph relating to the arms race and its wording was even quite modest. That deadlock required emergency solutions and the political will to oversome obstacles was essential as well.

12. Underdevelopment was one of the main causes of human rights violations. The developed world, which accounted for less than one third of the world's population, had over 70 per cent of world income. Poverty, disease and ignorance prevailed in the third world, which did not participate in any major economic decisions. It was therefore necessary to formulate a declaration on the right to development which would be acceptable to all and which would take account not only of all General Assembly instruments, declarations, covenants and resolutions dealing with that right, but also of the principles of international law. Those documents were essential, for they were the end product of a long thought process on the part of their authors and such wealth must be used to advantage.

13. All progress was based on the production of material and spiritual wealth. The proposed declaration had to be based on national sovereignty, on freedom to adopt and implement decisions without foreign interference and on social and economic restructuring aimed at promoting the full development of the human personality. The achievement of that objective depended on the elimination of human rights violations, such as colonialism, neo-colonialism, racial discrimination, foreign aggression and the threat of aggression and the violation of national sovereignty. Co-operation played an important role in that respect and the Syrian delegation invited all States to work for complete disarmament so that the resources made available in that way could be used to reduce the widening gap between developed and developing countries. It was absolutely essential to establish a new international economic order which would ensure the co-operation of all States and remove obstacles to development, particularly that of the third world countries. All States should, however, bear in mind that it was their responsibility to guarantee their citizens equal access to education, housing, health care, employment and an equitable share of national income.

14. His delegation attached great importance to the elaboration of a declaration on the right to development at the earliest possible date.

15. Mr. Bamela Engo (Cameroon) took the Chair.

16. Mr. DOMINGUEZ ROCHE (Venezuela) said that the statement by the Chairman-Rapporteur of the Working Group of Governmental Experts on the Right to Development and the Working Group's report on its work (E/CN.4/1985/11) had led him to the conclusion that, despite - or perhaps because of - the importance of the right to development, the outlook was not very optimistic because consensus on the draft declaration was not broad enough.

17. As a developing country, Venezuela was convinced of the need to elaborate an instrument that would give expression to the right to development. Although little progress had been achieved, the work that had been done and the many proposals that had been put forward showed that countries had a positive interest in the preparation of a revised draft declaration. Such interest must not be allowed to wane, for it meant that there was a desire to reach an agreement. Work must therefore continue on the elaboration of the declaration and his delegation was fully prepared to co-operate to the best of its ability in the fulfilment of the Commission's mandate in that respect.

18. His delegation fully agreed with the ideas expressed in the Secretary-General's study on popular participation (E/CN.4/1985/10). It was convinced that respect for certain rights was a prerequisite for ensuring genuine participation.

19. The replies by countries showed that there were different ideas about the meaning of popular participation. In his delegation's view, popular participation was closely linked to a democratic régime, which was the direct expression of the people's will and allowed the free play of a wide variety of opinions as a basic condition for making participation a reality. Popular participation could not exist without political pluralism, freedom of expression, thought and information, freedom of conscience and the full realization of all the rights inherent in the human person, such as the right to health, education and employment. Authentic participation also meant that every citizen had to enjoy freedom to decide, according to his political ideology, how he wished to "participate". Criticism and disagreement were as essential in that regard as support and agreement.

20. His delegation attached particular importance to the relationship between popular participation and development and between the promotion of human rights and development. In its view, the question of development was thus very much within the scope of the Commission's competence.

21. His delegation fully supported the idea of elaborating a second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. The Venezuelan Constitution and Venezuela's legislation in general gave effect to the provisions of the Covenant relating to the right to life and capital punishment was expressly prohibited. Under the Constitution, equality, freedom and security of person were also regarded as fundamental rights and torture was a crime. To guarantee respect for those rights, Venezuela had a special institution, the Fiscalía General, an independent body which monitored respect for constitutional guarantees.

22. Mr. KOOIJMANS (Netherlands) recalled that, in 1981, the Commission had decided to set up the Working Group of Governmental Experts on the Right to Development because there had been a feeling that the debate on that new concept ran the risk of becoming deadlocked by being too closely linked to contentious political issues. The discussion of that concept had therefore been removed from the political arena and entrusted to a small group of qualified persons who were experts in the fields of international law and development - an idea which his delegation had immediately welcomed. It had been one of the sponsors of the draft

resolution setting up the Working Group of Governmental Experts and had thereafter followed the Group's discussions with great interest. During the first three years, those discussions had helped to clarify the issues involved. In 1982, proposals on the content of the draft declaration had been set out in a well-ordered manner and, in 1983, the Group had decided to work on the basis of "a technical consolidated text"; that had been an important step forward. In 1984, however, the Group's work had seemed to lose momentum, but his delegation had still been fairly optimistic. It therefore very much regretted having to say now that the results of the Working Group's meetings in 1984 had been very disappointing (E/CN.4/1985/11). At its eighth session, the Group had discussed only four paragraphs of the preamble of the draft declaration, without reaching agreement on any of them, and, at its ninth session, a general understanding had been reached on only one of the preambular paragraphs. In respect of some issues, the gap between the different positions had even seemed to widen. His delegation considered that, for the time being, the Group had exhausted its possibilities. It seemed to be conducting political negotiations, not a study by experts. The composition of the Group had gradually assumed a character which departed considerably from the original idea advanced in 1981: there were very few scholars left among the members, the majority of whom were diplomats and officials from Ministries of Foreign Affairs. The work done so far had certainly been useful and it could be said that the Group had fulfilled a great part of its original mandate. In view of the present situation in the Group, however, it now had to be decided whether it made sense to prolong a discussion that was running in circles.

23. His delegation associated itself with the concrete proposals made by the Chairman-Rapporteur of the Working Group of Governmental Experts at the Commission's forty-second meeting. It shared his opinion that the time had come to invite Governments and interested organizations to make their views known on the texts that had been prepared; the Working Group could then meet at a later stage to renew its efforts to draft a declaration on the right to development in the light of those comments. His delegation sincerely hoped that a further three-week session in January 1986 would enable the Working Group to submit to the Commission, at its forty-second session, a draft declaration that would lend itself to adoption by consensus. In that connection, his delegation had taken note with particular interest of the draft declaration to which the representative of Yugoslavia had referred at the forty-second meeting and which would make an extremely valuable contribution to the solution of a complex problem; a procedure should be found to make it possible to bring that document to the attention of Governments to enable them to comment on its content. His delegation earnestly hoped that, at its forty-second session, the Commission would be in a position to bring to a successful conclusion the work on a declaration concerning the right to development.

24. The study on "Popular participation in its various forms as an important factor in development and in the full realization of human rights" (E/CN.4/1985/10) showed that, at the national level, there were enormous differences in the way in which popular participation was perceived and codified as a right. The Secretary-General's study of international instruments seemed to raise more questions than answers. It was thus fair to conclude that, if, in that

context, popular participation could be viewed as a right at all, it was a right that was very much in statu nascendi. His delegation hoped that Governments would sumbit their comments on that study after having given it the attention it deserved.

25. Mr. RAVENNA (Argentina) said that the General Assembly had adopted the Declaration on the Establishment of a New International Economic Order because the international community had been convinced of the seriousness of the world economic crisis and of the worsening political situation throughout the world. There continued to be some very negative trends that were seriously affecting the developing countries. In order to overcome the current crisis, those countries' new function as full partners in world development had to be given full recognition.

26. General Assmebly resolution 32/130 affirmed the interdependent and indivisible nature of all human rights. Articles 23, 25, 26 and 28 of the Universal Declaration proclaimed the right to work, to an adequate standard of living, to education and to a social and international order in which the rights and freedoms set forth in the Declaration could be fully realized. There could be no full enjoyment of human rights as long as the world's wealth continued to be unfairly distributed, with the result that the independence and standard of living of the countries of the South were affected by foreign debts often several times higher than their gross national product, as was the case in Argentina.

27. His delegation congratulated the Working Group of Governmental Experts on the Right to Development on the results it had achieved at its eighth and ninth sessions and commended it on the quality of its latest report (E/CN.4/1985/11). The documentation and proposals referred to in paragraph 34 of that report showed that the Group might not be able to go any further. Perhaps a text should now be submitted to the General Assembly so that it could adopt the declaration under consideration as rapidly as possible.

28. Popular participation, which was the subject of agenda item 8 (c) and of the study by the Secretary-General contained in document E/CN.4/1985/10, was, in his delegation's view, a human right that enabled individuals to take part in the decision-making process within an organized political community. The conceptual difficulty referred to in paragraph 19 of the report should not prevent a thorough examination of the substance of popular participation, which was part of the very essence of democracy. With regard to agenda item 18, he announced that, in his country, the Executive had submitted a bill to Congress with a view to the ratification of the Covenants; the bill had already been approved by the House of Representatives and it was now being discussed by the Senate. His country also reaffirmed its support for the initiative by the Federal Republic of Germany and other countries concerning the elaboration of an optional protocol on the abolition of the death penalty. As a general rule, Argentina had pledged to ratify all international instruments on human rights as a means of contributing to the establishment of a fairer order, including a new economic order, in which human beings could develop fully.

29. Mr. MINAMI (Japan) expressed appreciation for the efforts made by the Working Group of Experts on the Right to Development, which, in endeavouring to prepare a draft declaration on that right, had accomplished a task whose complexity was reflected in the large number of proposals listed in annexes VII and VIII of its report (E/CN.4/1985/11). In 1984, however, the Working Group had been unable to complete its mandate and had become deadlocked. Its Chairman, Mr. Sène of Senegal, had recently described his ideas on how the deadlock could be broken. His own delegation had been particularly interested in the suggestion that the views and comments of Governments and non-governmental organizations should be obtained before the Group went on to complete its work. National inputs such as those provided by the delegation of Yugoslavia at the current session were extremely useful. An exercise of the kind undertaken by the Group should not be rushed for adoption by the General Assembly, but should be based on careful agreement by the members of the Commission.

30. Turning to item 18, he stressed the fact that the two Covenants, which gave binding legal character to the Universal Declaration, were the basis for current international efforts to promote and protect human rights. Document A/39/461 indicated that, although the number of States Parties had increased, the rate of new accessions was declining. His delegation hoped that more States would accede to those instruments so that they would one day have universal support.

31. The implementation of the provisions of the two Covenants by all States Parties was an equally important question. In that connection, his delegation was very much concerned about delays in the presentation, as well as about the non-submission, of reports. For example, over 100 reports due under the Covenant on Economic, Social and Cultural Rights had been outstanding at the end of 1984. The Human Rights Committee had considered the second periodic reports of States Parties for the first time and his delegation noted with satisfaction that those reports had taken account of the recommendations made at the Committee's last session, but it hoped that the new procedure would not impose an additional burden on States Parties. It had found the Committee's "general comments" on articles 1 and 14 of the International Covenant on Civil and Political Rights, which were contained in document A/39/40, to be useful, but it was concerned that the general comments on article 6, which had been submitted as a separate document (A/39/644), might constitute a deviation from the Committee's mandate. The Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights was currently considering the reports of States Parties more thoroughly. At its first regular session of 1985, the Economic and Social Council would be reviewing the composition, organization and administrative arrangements of the Working Group. His delegation would like such matters to be dealt with step by step through the adoption of practical measures and in the light of the views of the States Parties to the Covenant.

32. Document A/39/484 concerning the 1st meeting of the Chairmen of monitoring bodies under the relevant human rights instruments contained useful suggestions on ways of improving the system for the submission of reports by States Parties. His delegation supported the suggestion concerning advisory services and technical assistance for States and believed that other suggestions, such as the

establishment of a system of regional advisers and the preparation of a manual, deserved careful consideration. It also concurred with the suggestion that efforts should be made to avoid duplication in the reporting system and considered that further meetings of the Chairmen of the bodies which monitored the implementation of international instruments should be held in future, possibly on a biannual basis; the Chairman of the Committee on the Elimination of Discrimination against Women should participate in the next meeting.

33. His delegation hoped that the discussion on the elimination and abolition of capital punishment would contribute to efforts to put an end to the excessive application of that punishment, particularly in the form of mass executions. The question whether the death penalty was to be retained or abolished must, however, be decided by States themselves in the light of the views of their people, their customs and their legal systems. In his own country, the majority of the population continued to be in favour of maintaining the death penalty for particularly grave crimes. The death sentence was imposed in few cases and carried out only rarely, but his Government's position was that it was not desirable to abolish it at the present time.

34. Mr. JOUNDI (Syrian Arab Republic) said that his delegation was grateful for the documentation on agenda items 8 and 18 and, in particular, for the documents in Arabic. He expressed the hope that the Secretariat would soon be able to issue all documents in all the official languages so that delegations would all be able to follow the Commission's work as closely as possible.

35. Human rights issues had been of concern to human societies in every civilization, especially with regard to the application of divine laws. Mankind had constantly struggled against oppression and injustice. In modern history, peoples had struggled against colonial oppression and had fought for the right to self-determination so that they would be able freely to choose their political and social system.

36. The principles of equality, liberty and the unity of peoples had been affirmed in the Charter and in the Universal Declaration of Human Rights. Those principles, especially the right to self-determination, had subsequently been reformulated and given binding force in the two International Covenants and in the Optional Protocol. His country had acceded to both Covenants many years previously. Unfortunately, despite the importance attached to the right to self-determination in the very first article of each Covenant, some peoples were still being deprived of that right, including the Palestinian people, the black people of South Africa and the Namibian people. Gratitude should be expressed to all the countries which had already acceded to the Covenants and to the Optional Protocol. Many others had, however, not yet acceded to those instruments, as shown in document A/39/461. That document, dated 11 September 1984, indicated that, on 1 August 1984, 83 States had signed the International Covenant on Economic, Social and Cultural Rights, 81, the International Covenant on Civil and Political Rights, and 34, the Optional Protocol thereto. The States which had not yet signed those instruments should do so as soon as possible, in accordance with the relevant General Assembly and Commission resolutions.

37. His delegation also hoped that increased efforts would be made to give human rights documents broader media coverage and to disseminate them in as many languages as possible. It would also like the necessary facilities to be made available so that the Commission and its bodies could meet in developing countries, and not only in New York and Geneva; the peoples of the third world would thus be able to gain greater awareness of the functioning of United Nations machinery for the protection and promotion of human rights.

38. The question of the elaboration of a second optional protocol aiming at the abolition of the death penalty had been discussed at length at the August 1984 session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, as shown in the Sub-Commission's report (E/CN.4/1985/3). The discussion had indicated that differences of opinion on that question were linked to differences among economic, legal, social and cultural systems. Those differences had to be taken into account in the elaboration of an optional protocol. The issue would have to be dealt with in depth and a consensus sought. It must be borne in mind that the goal of an instrument of that type was to strengthen respect for human rights throughout the world, through the accession of as many States as possible.

39. Mr. COLLIARD (France) thanked Mr. Sène for his progress report on the work of the Working Group of Governmental Experts on the Right to Development. In 1984, two members of the Working Group had prepared a technical consolidated text (E/CN.4/1985/11, para. 9) to serve as an informal basis for the experts' future work. Since the submission of that consolidated text, definite progress had been made: agreement had, in particular, been reached on many of the documents of the preamble to the draft declaration under consideration. At its eighth and ninth sessions, the Group had continued its work on the basis of the consolidated text, but it had marked time with regard to the adoption of any new provisions. In view of the differences of opinion that had come to light, the Group had annexed to its report all of the texts that had been proposed at its past four sessions (draft declarations and proposals on different paragraphs). Those texts gave an idea of the fruitful exchange which was taking place in the Group, even despite the different opinions being expressed.

40. Referring to some ideas which should be included in the preamble and in the operative part of the draft declaration on the right to development as a human right, he said that, in his delegation's view, the right to development had both an individual and a collective dimension. It also involved the right of all persons and groups of persons, including peoples, to take part in and benefit from development. The right to development should, moreover, not be seen only from the material point of view: it was basically of an ethical and moral nature and it had been described as a right to solidarity. In the context of that right, however, it was obvious that the implementation of a development strategy based on a denial or failure to take account of civil and political rights or economic, social and cultural rights would violate international human rights standards and be contrary to the concept of development. Although the establishment of a new international economic order was, of course, an essential element of the promotion and enjoyment of human rights, it was in no way a prerequisite for the exercise of those rights.

41. As Mr. Sène had pointed out, the Working Group of Governmental Experts on the Right to Development, which had been set up four years earlier, was now at a crossroads and an attempt should be made to take stock of what it had accomplished since 1981. Using basically theoretical data, the Working Group had first of all succeeded in assembling and classifying the necessary elements for the elaboration of a draft declaration. The experts had then worked hard on formulating a text, even though they had not been able to agree unanimously on the terms corresponding to certain concepts; once the points on which they disagreed had been identified, they should move forward on the basis of the work they had done so far.

42. To that end, the Commission should determine which points had commanded general agreement and then consult all Member States of the United Nations in order to obtain their views on the concept of the right to development and on the content of the draft declaration. If such consultations were to be of any real use, they should be conducted on the basis of a written procedure and a schedule to be drawn up; they should take account of the documentation submitted at the Commission's current session and of the draft declaration which had been circulated unofficially by one delegation and which contained many useful elements.

43. The task of consolidation might, for example, be entrusted to the Chairman of the Working Group, who would be assisted by the Bureau, which might convene the Group of Experts before the Commission's forty-second session to take stock of the work done thus far. Informal consultations might also be held by the experts with a view to the adoption of specific guidelines. Such a procedure would, in his opinion, be entirely in keeping with the provision of the relevant resolution adopted at the thirty-ninth session of the General Assembly requesting the Secretary-General to transmit to the General Assembly a detailed report on the progress made by the Group.

44. The results of the Group's work, which would, it was to be hoped, be a draft declaration adopted by consensus, would be transmitted to the forty-second session of the Commission; a text adopted by consensus would obviously have greater weight and scope.

45. By its resolution 39/145, the General Assembly had requested the Commission to take the necessary measures to promote the right to development, taking into account the results of the Working Group of Governmental Experts. The wording of that resolution was perfectly clear and it should enable the Commission to define ways and means of giving the Working Group of Governmental Experts fresh impetus at the current stage in its work, as well as the benefit of expressions of renewed political will on the part of Member States. Since the Group was now in a transition phase, the resolution to be adopted by the Commission should deal primarily with procedure and the organization of the work to be carried out by the forty-second session. He hoped that that resolution would take account of the suggestions made by his delegation.

46. Mr. GOLEMANOV (Bulgaria) said that his delegation attached great importance to the two International Covenants on Human Rights, which constituted a solid, legally binding basis for the achievement of international co-operation in

promoting and encouraging respect for human rights and fundamental freedoms. The strict observance of the obligations for which they provided was the most effective way of solving human rights problems. There was general agreement that all human rights and fundamental freedoms were indivisible and interdependent, as stated in a number of international instruments, United Nations resolutions and other texts, especially General Assembly resolution 32/130, paragraph 1 (b) of which stressed the vital importance of economic, social and cultural rights. The Commission itself had repeatedly affirmed that importance. The problems arising in the field of economic, social and cultural rights were obviously not the result of a lack of awareness: wherever such problems existed, they were either due to a lack of resources, possibilities and experience or to the unwillingness of certain States to adopt policies to meet the urgent economic and social needs of millions of human beings.

47. The serious hardships which were currently being faced by a number of developing countries and which had their roots in the colonial past were one of the primordial concerns of their own Governments and of the international community as a whole. In the past year, the socio-economic situation in many parts of the world had worsened; millions of persons were dying of hunger or were threatened with the same fate and that created insurmountable obstacles for the countries that were trying to reverse the situation. The disastrous impact of the drought in Africa was just one such sad example. The situation was being further aggravated by other factors, which were not unavoidable: political, economic and diplomatic pressures were being applied to the countries concerned to make them abandon their efforts to restructure the unjust international economic order. Loans and so-called "assistance", whose main objective was profit rather than progress, were mortgaging their future. Was it really necessary to repeat that respect for economic, social and cultural rights would be ensured by co-operation rather than confrontation, by assistance rather than sabotage and by respect for sovereignty and independence rather than aggression? Must it be stated once again that the indivisibility of all human rights also meant that full respect for and observance of the right of peoples to self-determination had to be ensured in order to bring about progress in the field of economic, social and cultural rights?

48. Another case of serious concern in the context of economic, social and cultural rights was the failure of a number of highly developed countries possessing considerable industrial and economic potential to meet the basic needs of their population on a just and equitable basis. In recent years, there had been repeated attacks on the economic, social and cultural rights of millions of persons in those countries, where inequality had deepened and social programmes had been curtailed because of exorbitant military expenditures. Unemployment had increased and poverty was affecting more and more young people, women, migrant workers and other groups. People who had been trying to exercise their civil and political rights, especially by demonstrating in defence of their right to work, had been arrested, detained, beaten up by the police and, in some cases, killed. Not only had basic economic, social and cultural rights thus been violated on a massive scale, but the traditional gap between commitment and performance in the field of civil and political rights had been widening further.

49. The need to create appropriate social and economic conditions for the full and genuine enjoyment by all of human rights and fundamental freedoms was therefore obvious. The international dimensions of that task meant that all States had to make sincere efforts to preserve peace and strengthen international security, particularly by strictly observing the norms of international law and refraining from the use of force. With regard to the national dimension of social and economic progress, it was his delegation's firm belief that, in accordance with article 6 of the Declaration on Social Progress and Development, the achievement of deep and radical changes in economic structures which did not create conditions leading to genuine equality among people was of primary importance for genuine social progress and development. In that respect, the right to development had to be given all the attention it deserved; his delegation would speak further on that right at a later stage.

50. The effectiveness of the Covenants obviously depended as much on their universality as on compliance by States Parties with the obligations they embodied. In that connection, it was regrettable that one member State of the Commission had for years refused to ratify the international instruments on human rights, particularly the Covenants. Perhaps that meant that the country in question was aware that legally binding norms required acts instead of words and that, if it ratified those instruments, much would have to be changed in terms of human rights policies at home and abroad. Other member States of the Commission which were Parties to the Covenants had, moreover, made substantial reservations to article 1 dealing with the right of all peoples to self-determination.

51. As a Party to both Covenants, Bulgaria had always submitted its reports to the competent bodies on time, in accordance with its commitments under the Covenants. The results of the consideration of those documents were additional proof that the Bulgarian Government's policy had been effective in creating genuine legal guarantees and material conditions for the full enjoyment of all human rights.

52. On the whole, his country was satisfied with the work of the Human Rights Committee and the Sessional Working Group of Governmental Experts, as well as with the constructive dialogue which they had established with the States Parties to the Covenants. Its approach to their work was one of co-operation and support, but, as his delegation had already stated at the thirty-ninth session of the General Assembly and at the Commission's current session, it had been disappointed and dissatisfied with the content of document A/39/484 concerning the meeting of the Chairmen of the four human rights bodies that had been held at the Centre for Human Rights.

53. Mr. SYCHEV (Observer for the Byelorussian Soviet Socialist Republic) said that, for his country, which had always attached the greatest importance to respect for economic, social and cultural rights, there was no doubt that every person had a basic right to employment, education, health and social security. Economic, social and cultural rights were also totally indivisible from other human rights. The socialist countries had obviously played a major role in the codification and application of that category of rights, since they had called for the abolition of the exploitation of man by man and had affirmed the

need to create conditions of true equality as a basic requirement for the effective enjoyment of human rights. Other countries had advocated "free enterprise", the blessings of which were unemployment, social inequality and many other evils; the only "freedom" that existed in that context was freedom to sell labour: that system was thus absolutely contrary to respect for the most basic human rights.

54. His country's legislation and practice guaranteed the full enjoyment of economic, social and cultural rights by all citizens, who were entitled to employment, rest, education, health and social security. The improvement of everyone's material and cultural standard of living was, moreover, the main objective of the authorities' domestic policy. Specific measures were constantly being taken to improve the population's living and working conditions.

55. Although his country was quite convinced that respect for the economic, social and cultural rights of citizens depended first and foremost on the efforts made by States themselves in the domestic sphere, as well as on the legislative and other measures they took to meet the legitimate needs of all, it was aware of the importance of the international aspect of the problem and of the fact that full respect for social, economic and cultural rights was closely linked to the international situation. In recent years, that situation had seriously deteriorated. The socialist countries had therefore repeatedly proposed that measures should be adopted to curb the arms race, especially the nuclear arms race, as a way out of a particularly dangerous impasse. He would not list all the initiatives these countries had taken in that regard, for those initiatives were well known. He would, however, draw the Commission's attention to one of the proposals which had been made by the socialist countries, for it was of direct concern to the Commission: in March 1984, the States Parties to the Warsaw Pact had proposed to the member countries of NATO that the two groups of countries should pledge not to increase military expenditures - and subsequently to reduce them - thereby releasing substantial resources that could be used for social and economic development. By curbing the arms race, it would be possible to strengthen international peace and establish a more favourable climate for co-operation, especially in the area of human rights. That was a matter of direct concern to the Commission, since one of its tasks was to denounce obstacles to full respect for fundamental rights and freedoms and to find ways of surmounting those obstacles.

56. Everyone was aware of the importance the United Nations attached to the restructuring of international economic relations, which were now so unjust. Some States had, however, systematically hampered such restructuring and, for several years, it had been increasingly clear that the neo-colonialist countries' aim was to take advantage of the developing countries' economic problems in order to interfere in their internal affairs and hamper their autonomous development with a view to fostering the uncontrolled expansion of transnational corporations, weakening the public sector and, in short, re-establishing economic colonialism. The developing countries' debt problems were particularly revealing in that regard: in late 1984, their debt had reached such astronomical levels that it would be nearly impossible to absorb.

Without referring to other forms of financial exploitation, he pointed out that the volume of the developing countries' debt service far exceeded that of the new loans being granted to them. In that connection, the role played by the abusive rise in interest rates could not be overlooked: according to the UNCTAD secretariat, between 1979 and 1981, the non-oil-producing developing countries had lost between $15 and 20 million as a result of the rise in interest rates. The creditor countries were imposing economic constraints on their debtors for the sole purpose of destabilizing them and ensuring the inviolability of their own capital abroad. There was thus an urgent need to restructure international economic relations and, in June 1984, the CMEA countries had adopted a resolution on peace and international economic co-operation in which they had stressed that it was the duty of all to respect the national independence and sovereignty of all countries, not to resort to force and to establish egalitarian and mutually advantageous international relations on a non-discriminatory basis. In short, the socialist States were prepared to take part in any efforts to give effect to economic, social and cultural rights, in keeping with what was already their domestic and foreign policy.

57. The International Covenants on Human Rights and other relevant instruments offered a solid legal basis for the promotion and strengthening of human rights under conditions of equality. In that connection, the adoption of a draft declaration on the right to development would be particularly relevant, for development in freedom and peace was an essential condition for the full enjoyment of all human rights. There was an obvious need to remove the threat of nuclear war, to bring about disarmament and decolonization and to restructure international economic relations in order to guarantee respect for the right to development and for human rights in general. The draft declaration should explicitly state that any interference and any violation of sovereignty were intolerable because they were contrary to development. It should, for example, contain provisions on the elimination of apartheid and racial discrimination, as well as on the reparations owed by the former colonial countries to the developing countries. With regard to future work on the draft declaration, he endorsed the proposal that the work should be completed in 1985, in time for the fortieth session of the General Assembly, and that the version proposed by the developing countries should be adopted as a working basis.

58. Turning to agenda item 18, he said that his country had always tirelessly supported international co-operation in the field of human rights with a view to the implementation of the International Covenants on Human Rights. He was therefore pleased to note that 83 and 80 States had ratified or acceded to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, respectively. His country had been one of the first to ratify the Covenants and it strictly respected the obligations it had thus assumed. Under article 40 of the International Covenant on Civil and Political Rights, it had submitted its second periodic report to the Human Rights Committee, which had considered it at its twenty-third session in October-November 1984.

59. The Commission should appeal to all countries who had not yet done so to ratify or accede to the International Covenants on Human Rights. In that way, those instruments would be truly universal.

60. Mr. HÖYNCK (Federal Republic of Germany), speaking on agenda item 8, said that, although his country was not represented in the Working Group of Governmental Experts on the Right to Development, it had followed the Group's work. His delegation wished to thank the Chairman of the Working Group for his very lucid introduction to the report of the Working Group (E/CN.4/1985/11). It supported his appeal that the Commission should not become resigned to the difficulties of its task and should not attempt to achieve results by some kind of tour de force. The subject was too important to be treated with impatience.

61. His Government had continuously supported all United Nations efforts to promote human rights. It had been guided by a broad and dynamic concept of human rights, which included the right to development, as the Minister for Foreign Affairs had stated in the general debate at the thirty-eighth session of the General Assembly. As far as substance was concerned, his delegation believed that it was both possible and necessary to add a new element, or a new dimension, to human rights without detracting from or minimizing in any way the well-established human rights concept. The right to development should be dealt with as a right. There must be no question of blurring the very basic principle that human rights were and must remain full-fledged rights, clear elements in the sphere of international law. They must not be reduced to more or less well-defined labels for national or international campaigning. A definition of the right to development should also add a new element to human rights and a new element to development.

62. The elaboration of such a definition was, however, not an easy task. The Working Group had certainly assembled an impressive volume of data, ideas and proposals (see E/CN.4/1985/11), but, in view of the challenges it faced, it was not at all surprising that it had reached a standstill. What was needed now was fresh impetus that would make further and rapid progress possible.

63. In view of the work that had been done thus far, it would be a good idea to go back to Governments and seek their views on the options offered in the report of the Working Group. His Government, for its part, would not limit itself to studying the report: it would also take account of the Yugoslav draft proposal, which was an impressive example of a consolidated draft. Direct consultations with Governments would create the political impetus and guidance that the Working Group needed. That approach was worth trying in order to achieve meaningful results or, in other words, to arrive at a consensus, without which any definition of the right to development would remain a dead letter. His delegation was convinced that the General Assembly was not the appropriate body to arrive at such a consensus and that, if the matter was referred to it at the current stage, a chance of reaching a consensus would be missed. The Working Group should therefore meet again, as had been suggested, in January 1986.

64. Because it was convinced that a common definition of the right to development would be a major contribution to the United Nations human rights system, his delegation advocated caution and circumspection. In its opinion, it should be possible to find a consensus on the basis of the proposals made by the Chairman-Rapporteur of the Working Group.

65. Mr. EL-WAER (Libyan Arab Jamahiriya), speaking on agenda item 8, thanked the Working Group of Governmental Experts on the Right to Development for its untiring efforts to carry out a task that was both difficult and urgent. He

also thanked the Chairman of the Working Group for his excellent and objective introduction to the Working Group's report (E/CN.4/1985/11). In his delegation's view, it was not necessary to try to reach a consensus on every paragraph of the draft declaration because a general consensus would be difficult to achieve and the proclamation of the declaration would thus be delayed. There was no doubt that the adoption of the draft declaration would require a great deal of flexibility on the part of the Working Group. In that connection, the constructive efforts of the Yugoslav delegation were to be commended.

66. It was essential to establish an international economic order which would safeguard the interests of all countries and, in particular, the developing countries and provide protection from domination and exploitation as had been affirmed by the General Assembly, particularly at its sixth special session, and by the Group of 77 and the non-aligned movement. Developing countries, especially the least developed, the majority of which were in Africa, were being hard hit by the international economic situation. Their own situation was critical: their development prospects were becoming worse; their foreign debt burden was growing heavier, while their export earnings were slackening as a result of lower prices for non-petroleum commodities and the protectionist barriers that some developed countries were erecting; they were plagued by desertification and famine. Many of them had thus been forced to revise their development plans and to reduce their investments in all sectors of economic activity and they were unable to guarantee their population an adequate standard of living.

67. At the same time, however, some developed countries spent more on armaments and the development and purchase of weapons of mass destruction than they did on development. Such weapons were employed in Zionist aggression, which had the military, political and economic and diplomatic support of a great Power, and they were also being used for the oppression of the black population of southern Africa. Such expenditures must be reduced in the interests of economic recovery and development.

68. Foreign domination, territorial occupation, racial discrimination, military harassment and the violation of air space and territorial waters were all obstacles to development. Such was the case in southern Lebanon, where Zionist acts of aggression and destruction were preventing the Lebanese from enjoying their most fundamental rights.

69. His own country had also had serious problems to overcome because mines had been laid in its territory during the Second World War and one of the great Powers had, with the assistance of other industrialized countries, later boycotted its exports of petroleum products and its imports of technology. It had had to endure violations of its air space and its territorial waters. It had, however, stood those tests and had even increased its defence capability.

70. His delegation welcomed the Secretary-General's study on popular participation in its various forms as an important factor in development and in the full realization of human rights (E/CN.4/1985/10 and Add.1 and 2). The report should be regarded as only a first step in the transfer to peoples of wealth, weapons and political, economic and social decision-making power.

71. Turning to agenda item 18, he said that his delegation was not in favour of the elaboration of a second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. The abolition of the death penalty was contrary to the precepts of Koran, which constituted his country's social legislation and prescribed the death penalty for premedidated crimes.

72. His delegation noted with satisfaction that the number of States which had ratified or acceded to the International Covenants on Human Rights was increasing steadily and it hoped that that trend would continue.

73. Mr. Chowdhury (Bangladesh) resumed the Chair.

74. Mr. NDIAYE (Senegal), speaking on agenda item 18, referred to the report (A/39/461) in which the Secretary-General had reviewed the status of the International Covenants on Human Rights.

75. His delegation's position on agenda item 18 was based on three main ideas. First, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol thereto, which, together with the Universal Declaration of Human Rights, constituted the International Bill of Human Rights, were, as stated in the preamble to the Universal Declaration, "a common standard of achievement for all peoples and all nations" and a fundamental source of inspiration for national and international efforts to protect and promote human rights and fundamental freedoms. It was therefore regrettable that half of the Member States of the United Nations had not considered it their duty to accede to the Covenants and to the Protocol, which, once ratified, constituted legally binding treaties. Respect for and the protection and promotion of human rights at the national and international levels meant that all members of the international community had to have the same firm belief in the value of the standards that would make it possible, as stated in Article 1 of the Charter of the United Nations, to achieve "international co-operation in solving international problems of an economic, social, cultural or humanitarian character". Senegal, which had ratified the two International Covenants and the Optional Protocol in 1978, invited the Members of the United Nations which had not yet done so to respond to the appeal made by the General Assembly in its resolution 38/116. Harmony among peoples and peace among nations were based on the premise that the entire international community was subject to binding legal rules that constituted its common law.

76. Secondly, it was not enough for States to agree to become parties to the covenants; they also had to honour their commitments by fully implementing the instruments they had ratified. Frequently, human rights were being violated in various parts of the world and the international community was totally powerless to put an end to such a negation of international law. A further appeal therefore had to be made to the goodwill and understanding of the countries which were not complying with the rules which they had nevertheless freely enacted. The law would stop being negated only when the competence of the Human Rights Committee had become general and had been accepted by all States; the International Covenant on Civil and Political Rights would then acquire its full binding force. That should also be the case of the International Covenant on Economic, Social and Cultural Rights.

77. Thirdly, it was highly desirable that the International Covenants on Human Rights and the Optional Protocol should be effectively implemented once they had been ratified. They could, however, be implemented only if United Nations standard-setting activities and the "jurisdictional" or monitoring activities of the Human Rights Committee were accompanied by educational activities of various kinds. Human rights should be taught as part of a public information campaign and, to that end, it would be necessary to prepare and distribute teaching materials which took account of cultural sensitivities, living conditions and social organization in every region of the world. Exchanges of information, guidelines, advisory services and assistance in the field of human rights also had to be rationalized and harmonized. In that connection, his delegation drew attention to the report of the meeting of the Chairmen of the Commission, the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights (A/39/484), which described the obstacles to the implementation of the International Covenants on Human Rights and the Optional Protocol and which contained interesting recommendations and suggestions. His delegation hoped that such meetings would take place as often as possible and it intended to give the most careful consideration to all the recommendations made in the report in question.

78. The programme suggested in that document also had to be implemented and the co-operation of Governments and universities would be required for that purpose. Consideration might be given to the possibility of encouraging bilateral assistance and, as some delegations had done, of suggesting that some of the available resources should be used to set up a trust fund for a broader programme of advisory services. The possibility of making use of voluntary contributions should not be ruled out.

79. His delegation commended the organizations which had taken the initiative of holding a meeting at Syracuse from 30 April to 30 May 1984 in order to carry out an in-depth study of the interpretation and implementation of the provisions of the International Covenants on Human Rights which allowed restrictions and derogations. The principles that had been identified at that meeting were a major contribution to the protection and promotion of human rights.

80. In his delegation's view, the international community must devote all its efforts to solving the substantive problems raised by the agenda item under consideration; otherwise, there would be no point in continuing to set standards, for that would be only an exercise in wishful thinking.

81. The CHAIRMAN said that, since he had been sure that the members of the Commission would so agree, he had informed the Secretariat that morning that the current meeting would have to go on until midnight so that the Commission could make further headway. Despite all the commendable efforts it had made, the Secretariat had not yet been able to reply to his request. The Commission, which had duties and obligations towards the peoples of the world, had requested and obtained permission to hold 20 additional meetings during the current session, with all the necessary Secretariat services. It was therefore the duty of the Secretary-General and his representatives to provide the Commission with the services to which it was entitled.

82. He saw no other solution but to call a meeting of the Bureau for the following day in order to look into the situation and see what services the Secretary-General could provide. If the Commission was unable to have the services which had been agreed on and did not succeed in completing its work, it could not be held responsible.

83. He hoped that, by the time the meeting of the Bureau was held, the Assistant Secretary-General for Human Rights would have been able to obtain information from the Secretary-General on the services made available to the Commission and that he would be in a position to report thereon at the Commission's next meeting.

The summary record of the second part of the meeting is contained in document E/CN.4/1985/SR.44/Add.1